

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

GARY R. PIERCE,

Plaintiff,

v.

DREW EDMONDSON, et al.,

Defendants.

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Case No. CIV-05-513-RAW

ORDER

Before the Court is the motion of defendant Dennis Cook for attorney fees. On October 30, 2007, this Court entered an Order and Judgment, dismissing plaintiff's pro se civil rights claim as frivolous.

Under 42 U.S.C. §1988(b), a district court has discretion to award a reasonable attorney fee to a prevailing party in a civil rights action. *See Houston v. Norton*, 215 F.3d 1172, 1174 (10th Cir.2000). "Although it is rare for fees to be assessed against a pro se plaintiff in a §1983 action, a district court has discretion to do so if the plaintiff's suit was frivolous, vexatious, or brought to harass or embarrass the defendants." *Ayala v. Holmes*, 2002 WL 110414 (10th Cir.). The Court is persuaded its discretion in this case is best exercised in denying the motion.

It is the Order of the Court that the motion of defendant Cook for attorney fees (#104) is hereby DENIED.

ORDERED THIS 22nd DAY OF JANUARY, 2008.

Dated this 22nd Day of January 2008.

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Ronald A. White
United States District Judge
Eastern District of Oklahoma